



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

September 20, 1991

Ms. Helen K. Bright
The University of Texas System
Office of General Counsel
201 West Seventh Street
Austin, Texas 78701

OR91-432

Dear Ms. Bright:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13478.

The University of Texas System has received two requests for information relating to alleged violations of university class enrollment regulations. The request, much of which is presented in interrogatory fashion, includes information relating to university rules and regulations, university procedures for regulation approval, a definition of the student-university relationship and the rights of students in grade appeals, and university calendar procedures. Specifically, the request includes a copy of "Student Report CBM-001 with number 449-15-1627." You claim that the request requires you to create new documents, to respond to factual questions, and to, "in effect, respond to legal interrogatories." You claim that the Open Records Act does not require a governmental body to do such. You also claim that the requested information is excepted from required public disclosure by section 3(a)(3).

We have considered the exceptions you claim and have reviewed the documents submitted to us. Previous open records decisions issued by this office resolve your request. Open Records Decision No. 572 (1990) (copy enclosed) held that the Open Records Act applies only to information in existence and does not require a governmental body to prepare new information. Similarly, a governmental body is not required to answer factual questions or to perform research. See Open Records Decision Nos. 563 at 8; 555 (1990); 347 (1982).

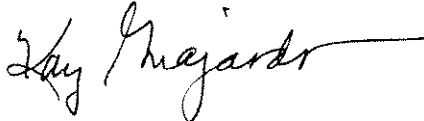
In order to properly invoke section 3(a)(3), a governmental body must show (1) that actual litigation exists or is reasonably anticipated, and (2) that the information in question

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relates to that litigation. Open Records Decision No. 551 (1990), *citing Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App. -- Houston [1st Dist.] 1984, writ ref'd n.r.e.). You have demonstrated that litigation is pending, and it is clear to us that the requested information relates to that litigation. If the requested information has not already been inspected by the requestor pursuant to court order or discovery, it may be withheld from required public disclosure under section 3(a)(3).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a formal open records decision. If you have questions about this ruling, please refer to OR91-432.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/GK/lcd

Enclosures: Open Records Decision No. 572

Ref.: ID# 13478

cc: Mr. Richard Tobias
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